

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:	:	CHAPTER 13
	:	
DANIEL ROSS BOYER, SR.	:	CASE NO.: 1:18-BK-04751-HWV
KATHLEEN TERESA BOYER	:	
Debtors	:	

**MOTION OF THE UNITED STATES TRUSTEE TO DETERMINE NECESSITY OF
MORTGAGE PAYMENT CHANGE PURSUANT TO F.R.B.P. 3002.1(B)(2)**

NOW COMES the United States Trustee (“UST”), through undersigned counsel, and respectfully moves the Court to enter an order scheduling a hearing to determine whether the May 3, 2023 Notice of Mortgage Payment Change filed by Freedom Mortgage Corporation is necessary consistent with F.R.B.P. 3002.1(b)(2), and in support thereof, states as follows:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 151, § 157(a) and (b)(1) and 1334(a) and (b). This matter is a core proceeding pursuant to 28 U.S.C. § 157(a), (b)(1) and (2)(A). Venue of this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for this motion is 11 U.S.C. § 105 and F.R.B.P. 3002.1(b)(2). The United States Trustee has standing pursuant to 11 U.S.C. § 307 and 28 U.S.C. § 586.

2. On November 9, 2018, Debtors, Daniel Ross Boyer, Sr. and Kathleen Teresa Boyer (the “Debtors”), initiated the above-referenced case by filing a voluntary petition for relief under Chapter 13 of the United States Bankruptcy Code. Docket Entry Number¹ 1.

3. At the time of filing, Freedom Mortgage Corporation (“Freedom”) held a first mortgage loan on the Debtors’ principal residence. Doc. No. 11, Pg. 27.

4. As required by F.R.B.P. 3002.1(b)(1), Freedom has regularly filed Notices of Mortgage Payment Change (“NOMPC”) during Debtors’ Chapter 13 case.

¹ Hereinafter “Doc. No.”

5. A general review of the filed NOMPCs reveals the Debtors' mortgage account is escrowed for homeowners' insurance only.

6. On May 3, 2023, Freedom filed its most recent NOMPC, which set forth an increase to the Debtors' monthly escrow payment, from \$334.83 to \$793.75. A copy of the May 3, 2023 NOMPC is attached hereto as Exhibit A. The new monthly mortgage payment, effective June 1, 2023, is \$1,658.60.

7. The Escrow Account Disclosure Statement ("Escrow Analysis") attached to the May 3, 2023 NOMPC reflects that the actual escrow payment decreased from \$198.16 per month to \$121.41, while the shortage spread increased from \$136.67 to \$672.34. See Exhibit A.

8. The Escrow Analysis also includes an Escrow Account History, which reflects a payment of \$8,476.00 from the escrow account in March 2023. See Exhibit A, Pg. 6.

9. The payment of \$8,476.00 is inconsistent with any prior escrow advance by Freedom and includes no information as to the nature of the advance.

10. Upon information and belief, Debtor, Daniel Boyer, is a disabled veteran who is exempt from paying property taxes.

11. F.R.B.P. 3002.1(b)(2) provides, "A party in interest who objects to the payment change may file a motion to determine whether the change is required to maintain payments in accordance with § 1322(b)(5) of the Code. If no motion is filed by the day before the new amount is due, the change goes into effect, unless the court orders otherwise."

12. The UST hereby posits that the Escrow Analysis lacks sufficient detail to determine if the payment change sought is necessary.

13. Furthermore, the UST notes that Freedom previously filed NOMPCs on June 9, 2022, and November 1, 2022, both of which sought to address issues with the homeowner's insurance policy.

14. The UST issued an inquiry letter to Freedom and its counsel regarding the June 9, 2022 NOMPC, in part due to an escrow payment increase of \$230.00. In response to that inquiry, the UST was informed the Debtor had switched insurance companies and that a refund had not yet been issued for the duplicate policy.

15. The UST is concerned that the Debtors' escrow payment has experienced dramatic swings over the last two years and raises its objection to the May 3, 2023 NOMPC to secure clarity for the Debtor and this Court as to the handling of the escrow account.

WHEREFORE, the United States Trustee respectfully requests the Court issue an Order scheduling a hearing to determine the necessity of the mortgage payment change and any other relief deemed appropriate.

Respectfully submitted,

ANDREW R. VARA
UNITED STATES TRUSTEE

D. Troy Sellars
Assistant United States Trustee

By: /s/ Joseph P. Schalk

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